Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of	)	
1998 Biennial Regulatory Review – Review of ARMIS Reporting Requirements	)	CC Docket No. 98-117

COMMENTS OF BELL ATLANTIC

Joseph DiBella
1320 N. Court House Road
8th Floor
Arlington, VA 22201
Tel. (703) 974-6350
Fax (703) 974-0259

Attorney for the
Bell Atlantic Telephone Companies

August 20, 1998

TABLE OF CONTENTS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of 1998 Biennial Regulatory Review – Review of ARMIS Reporting Requirements	CC Docket No. 98-117

COMMENTS OF BELL ATLANTIC[1]

I. Introduction and Summary.

The Notice in this proceeding proposes only superficial changes to the Automated Reporting Management Information System ("ARMIS"). In fact, for carriers that represent 90 percent of industry revenues, the Notice proposes to eliminate only about 6 out of 288 total pages per study area, and it does not propose to even look at the ARMIS infrastructure and service quality reports. On the contrary, the staff recently proposed to expand the latter reports, rather than streamline or eliminate them.

The proposals in the Notice do not comply with the requirements of the Act. Section 11 requires the Commission to review all of its regulations every two years, starting in 1998, and it states unequivocally that the Commission "shall repeal or modify any regulation it determines to be no longer necessary in the public interest." 47 U.S.C

[1] The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company; and New England Telephone and Telegraph Company

§161(b) (emphasis added). Similarly, Section 10 of the Act states that the Commission "shall" forebear from applying any regulation that is not "necessary" to ensure that rates are just and reasonable and to protect consumers. 47 U.S.C. §160(a).

The Notice clearly fails to meet these exacting legal standards. In an era when carriers such as Bell Atlantic are subject to pure price cap regulation, the Commission's original reasons for adopting the ARMIS reporting requirements – to evaluate actions under the now-abandoned rate of return ratemaking system and to determine if the shift to price caps would cause service quality or infrastructure investment to decline – clearly no longer apply. Under these circumstances, the ARMIS reports simply are no longer "necessary" to serve the public interest.

As Bell Atlantic demonstrates below, the ARMIS reports can and should be eliminated, or at least be drastically reduced in scope, and doing so will not impair the Commission's regulatory functions.

II. The ARMIS Reports Have Outlived Their Original Justifications.

The Commission adopted the ARMIS reports for two reasons that no longer apply.

First, in 1987, the Commission required the carriers to report financial and operating data to enhance the Commission's ability to regulate rates under the rate-of-return regulatory regime that existed at that time. ***See*** Automated Reporting Requirements for Certain Class A and Tier 1 Telephone Companies, 2 FCC Rcd 5770 ¶¶1-2, 6-14 (1987)("Automated Reporting Requirements"). The Commission used these

data to help it evaluate the comprehensive and highly complex annual access tariff filings, in which the local exchange carriers performed bottom-up forecasts of their interstate revenue requirements in order to establish new access charges each year designed to achieve the authorized rate of return. ***See, e.g.*** Annual 1988 Access Tariff Filings, 4 FCC Rcd 4115, ¶ 174 (1988), recon. 4 FCC Rcd 3965, 3966 (1989).

Under price caps, such detailed cost forecasts are no longer required. Price caps broke the link between rates and costs by setting limits on prices based on an industry-wide productivity factor and an inflation adjustment. Cost estimates are used in price caps for very limited purposes – such as to establish a forecast of "base factor portion" costs as a limit on the subscriber line charge, and to calculate various exogenous adjustments. In almost all cases, these data are not shown in ARMIS. These limited cost data are evaluated through the more focused information that the price cap carriers submit in the annual tariff review plans. Consequently, there is no longer a need for regular, comprehensive ARMIS reports of Part 32 costs (Form 43-02), joint cost allocations (Form 43-03), separations and access charge data (Form 43-04), comparisons of forecast and actual non-regulated usage and costs (Forms 495A and 495B), or summaries of these data (Form 43-01).[2]

---

[2] In 1987, the Commission also tried to justify requiring these data with a general reference to its need for "an improved basis for audit and other oversight functions" and for an ability "to quantify the effects of alternative policy proposals." Automated Reporting Requirements , ¶1. However, these functions require accounting audits and focused evidence requests, not the annual ARMIS "data dumps" of the large local exchange carriers' entire Part 32 accounting costs, Part 64 cost allocations, Part 36 separations data, and Part 69 interstate access cost and demand data.

Second, in 1990, the Commission adopted the current reports on service quality (Form 43-05), customer satisfaction (Form 43-06), and infrastructure (Form 43-07) in order to determine whether the price cap system would cause the carriers to reduce service quality and/or infrastructure investment. ***See*** Policy and Rules Concerning Rates for Dominant Carriers, 6 FCC Rcd 2974 (1991); ***see also*** LEC Price Cap Order, 5 FCC Rcd 6786, ¶¶ 334-336, 351 (1990). The Commission recently observed that there is no evidence of a decline in network investment or service quality as a result of the transition to price caps. ***See*** Price Cap Performance Review, 10 FCC Rcd 8961, ¶¶ 62, 365 (1995). Having served their purpose, these reports clearly are no longer "necessary," and must be eliminated.

III. The ARMIS Reports Cannot Be Justified Through Make-Weight References To New Provisions Of The Act.

Perhaps recognizing that the original justifications for the ARMIS reports have long since expired, the Notice does not even refer to the Commission's earlier orders as a reason for continuing to require the local exchange carriers to file these burdensome reports. Rather, it cites several new provisions of the Act that were added in 1996 as coincidentally requiring precisely the same information that has been collected for the last ten years for quite different purposes. This unlikely coincidence does not bear scrutiny.

The Commission claims that it needs ARMIS data to carry out its new statutory duties to prevent cross-subsidization and discrimination under Sections 254(k), 260, 271, 272, 273, 274, 275, and 276. Notice, ¶13, n.21-28. While, at first blush, this string of citations seems impressive, the Notice does not reveal any effort by the Commission to

determine whether the particular information in the ARMIS reports is necessary to carry out the specific functions described in those provisions. In the Notice, the Commission already has tentatively decided to maintain the ARMIS reports in substantially their current form without having determined whether the specific information in the reports is "necessary" and without having conducted the cost-benefit analysis that is required to show that maintaining these reporting requirements is in the public interest. ***See*** Elimination of Part 41 Telephone and Telegraph Franks, CC Docket No. 98-119, Notice of Proposed Rulemaking, FCC 98-152 (rel. July 21, 1998), ¶ 20.

Moreover, the ARMIS reporting system does impose significant costs and burdens on the local exchange carriers. For just one study area, the reports comprise 288 pages of data. For a company like Bell Atlantic, with 13 study areas, that comes to 3,316 total pages.[3] The annual incremental costs of preparing these reports, including labor and computer costs, approaches $1 million.[4] In addition, the Commission's proposal to allow the carriers to report ARMIS data electronically will do little to reduce this burden.

---

[3] The total is somewhat less than 288 pages per study area because some data are filed at the operating company level.

[4] This does not include the enormous cost of maintaining the Part 32 accounting system itself. The Notice suggests that Part 32 requirements may be "costless," and it states that the carriers maintain their books at an even greater level than the Part 32 Class A accounts "for other purposes." Notice, n. 32. In fact, the carriers maintain these data solely to meet the Commission's reporting requirements. To run the business and make financial decisions, carriers rely on their normal books of account, which are based on generally accepted accounting principles. ***See*** Arthur Anderson LLP, Accounting Simplification in the Telecommunications Industry, at 12, 18-19 (attached to comments of Ameritech in CC Docket No. 98-81, filed July 17, 1998).

Notice, ¶ 2. Almost all of these costs represent the effort to gather and process the information – the administrative tasks of printing and copying are relatively minor.[5]

These substantial costs cannot be justified unless the Commission can show that the data in the ARMIS reports are necessary to carry out the Commission's new functions under the Telecommunications Act of 1996. In fact, ARMIS data will do little, if anything, to help the Commission carry out these new responsibilities.

First, the Commission does not need ARMIS reports to prevent cross-subsidization. As Bell Atlantic demonstrated in its comments in the biennial review of the Part 32 accounting rules, the Commission has already ensured that such cross-subsidies cannot occur by adopting a pure price cap system of rate regulation that caps access charges regardless of any shifts in underlying costs. ***See*** Comments of Bell Atlantic, CC Docket No. 98-81, at 4-6 (filed July 17, 1998). As Professor Alfred Kahn has explained, a price cap regulated local exchange carrier "is no more able to cross-subsidize than an unregulated firm." Affidavit of Alfred E. Kahn, CC Docket No. 94-1, ¶ 27 (filed June 29, 1994) (attached to Reply Comments of Bell Atlantic). The Commission itself has recognized that the implementation of price cap regulation severed the "direct link between any improperly shifted costs and regulated basic service prices," thereby undermining the incentive to cross-subsidize. Computer III Remand

[5] Nonetheless, Bell Atlantic supports elimination of the paper filing, which is unnecessary given the availability of electronic filing and Internet posting.

Proceedings, 6 FCC Rcd 174, 179 (1990).[6] It also found that its decision to eliminate sharing from the price cap system "will remove the incentives that incumbent LECs now have to misallocate costs from services not subject to sharing, such as those no longer subject to price cap regulation." Price Cap Performance Review, 12 FCC Rcd 16642, ¶14 (1997).

Second, ARMIS data are not necessary for the Commission to enforce the new structural separation and nondiscrimination requirements of Sections 272 (interLATA services), 273 (manufacturing), and 274 (electronic publishing). The Commission has required the structurally separated affiliates that engage in these unregulated activities to maintain separate books of account based on generally accepted accounting principles, not the Part 32 accounts reported in ARMIS. ***See*** Accounting Safeguards Under the Telecommunications Act of 1996, 11 FCC Rcd 17539, ¶¶ 170, 243 (1996). ARMIS data will not reveal whether the local exchange carriers have followed the Commission's rules for conducting transactions with their separate affiliates, since the ARMIS reports do not provide any information about the cost allocation methodologies that are used in transactions with the unregulated affiliates. The Commission has already decided that it will rely on Internet posting of information about contracts with structurally separated

[6] In particular, the Commission's invocation of the new prohibition on cross-subsidization in Section 254(k) as a basis for requiring ARMIS reports (Notice, n.29) is undercut by the fact that the Commission has not seen the need to adopt any new regulations to enforce Section 254(k), other than to include the terms of this provision verbatim in Part 64 of its rules. ***See*** Implementation of Section 254(k), 12 FCC Rcd 6415, ¶¶ 8-9 (1997).

affiliates, rather than ARMIS reports, to provide public access to the terms of transactions between the Bell Operating Companies and their separate affiliates. ***See*** Accounting Safeguards, 11 FCC Rcd 17539, ¶ 122 (1996); ***see also*** Telemessaging, Electronic Publishing, and Alarm Monitoring Services, 12 FCC Rcd 5361, ¶¶ 249-51 (1997). The Commission has found that public posting of the terms and conditions of affiliate transactions are "sufficient to discourage, and facilitate detection of, improper cost allocations in order to prevent incumbent LECs from imposing the costs of their competitive ventures on telephone ratepayers." Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147, Notice of Proposed Rulemaking, FCC 98-188 (rel. Aug. 7, 1998), ¶ 96 (emphasis added). If public posting of information on affiliate transactions is "sufficient" to achieve these goals, filing ARMIS data on the same transactions clearly is not "necessary."

In addition, the Act already requires biennial audits of affiliate transactions to ensure compliance with the separate subsidiary rules for interLATA service and manufacturing, and an annual compliance review for electronic publishing. 47 U.S.C. §§272(d), 274(b)(8). These periodic audits will provide all the information that the Commission needs to conduct its oversight responsibilities. Indeed, the Commission's proposed procedure for conducting the biennial audits did not recommend use of any ARMIS report, and no commenter on the Commission's proposal suggested that ARMIS data be used to facilitate the audits. ***See*** Proposed Model For Preliminary Biennial Audit Requirements, 12 FCC Rcd 13132 (1997).

The Notice also states that the Commission needs ARMIS data in order to monitor the development of competition in the telecommunications marketplace. Notice, ¶ 13. However, the ARMIS reports provide an incomplete, and ultimately misleading, picture of the extent of competition, because they provide revenue and cost data for only one segment of the industry – the incumbent local exchange carriers. Aside from a list of interconnection agreements, the ARMIS data tell the Commission nothing about the market penetration of new entrants, the scope of and geographic reach of the services they provide, or the differences in growth rates between new entrants and incumbents. There is no need to retain ARMIS reports when complete and specific data on competition can be obtained directly from all industry participants, and from competing providers in particular.[7]

Finally, the Commission asks whether it needs to retain the ARMIS reports at the Class A level of detail in order to calculate pole attachment fees under the Commission's pole attachment order. Notice, ¶ 10. The answer is no. The Commission's formula for pole attachment rates applies with equal force to both local exchange carriers and to other "utilities" that own poles, such as electric and gas companies. If the pole attachment rates of these entities can be regulated without requiring them to report Part 32 cost accounting data, then there is no need for similar data from the local exchange carriers. In addition, the Commission's pole attachments formula only applies if a State does not directly

[7] Similarly, the passing reference in the Notice to the need for ARMIS data "to assess the impact of our policies on incumbent LECs" is no justification for continuing the ARMIS reports in all their burdensome detail. Notice, ¶ 13. Records based on generally accepted accounting principles would provide all the information that conceivably would be needed for this purpose.

regulate pole attachment rates, and if a complaint is filed after a party seeking a pole attachment and the pole owner have failed to resolve a dispute between themselves. ***See*** 47 U.S.C. §224(c)(1) and (e)(1); Implementation of Section 703(e) of the Telecommunications Act of 1996, 13 FCC Rcd 6777, ¶ 10 (1998). In such a complaint proceeding, the Commission can require the pole owner, be it a local exchange carrier or another utility, to provide the necessary data concerning its pole costs.

IV. At The Very Least, The Commission Should Streamline The ARMIS Requirements For All Local Exchange Carriers, And Allow ARMIS Data To Be Reported At The Class B Level.

For the foregoing reasons, neither the original considerations that the Commission relied upon to adopt the ARMIS reporting requirements, nor the additional statutory provisions that were added by the Telecommunications Act of 1996, justify continuing to require the local exchange carriers to file these burdensome reports. The Commission should eliminate them in their entirety.

If the Commission nonetheless decides not to eliminate these reports, it should at least (1) eliminate data that are publicly available from other sources; (2) allow all of the local exchange carriers to file ARMIS data at the Class B account level; and (3) allow carriers to file data in the streamlined format proposed by the United States Telephone Association in its comments on the Notice, or by BellSouth in its July 1, 1998 letter to the Commission.

Preliminarily, it should be noted that the issue here is whether – assuming that the Commission decides to retain some portion of its Part 32 accounting rules in the separate

ongoing review of those rules in Docket 98-81 (which it should not) – the Commission should require a comprehensive annual submission of the local exchange carriers' entire regulatory books, including Part 32 accounts, Part 64 allocations to non-regulated operations, Part 36 separations data, and Part 69 interstate access charge data. To continue the full panoply of ARMIS reporting requirements, the Commission must show that these data are "necessary" to allow the Commission to perform its regulatory functions, and that the benefits outweigh the costs of compliance.

Clearly, such data are unnecessary if they are available from other public sources. For instance, Form 43-02 requires data on a carrier's corporate structure and financial statements that are already available in the 10-k reports that the company files with the Securities Exchange Commission, and that are posted on the SEC web site.[8] The ARMIS reports should be revised to exclude data that are available in SEC filings.

As is shown above, the current ARMIS reporting requirements impose a substantial and continuing burden on the reporting carriers. These costs would be reduced significantly if the Commission allowed all carriers, and not just those that have aggregate revenues below $7 billion, as proposed in the Notice, to file ARMIS data at the Class B level of accounts. Notice, ¶¶ 7-9. Reporting data at this level and eliminating redundant information would reduce the ARMIS 43-01 through 43-04 reports to

[8] For example, the 10-k contains data on corporate ownership (duplicated in Form 43-02, schedules C1 through C4); cash flows (Form 43-02, schedule B2); debt and capital stock (Form 43-02, schedules B-11, 14, 15); and pension costs (Form 43-02, schedule I-3).

approximately 5 pages per study area, and still provide a comprehensive look at total company costs, non-regulated allocations, separations data, and interstate access data.

The Notice fails to show that requiring Class A account detail from the large local exchange carriers is necessary for the Commission to carry out its regulatory oversight functions. The first reason that the Commission offers for allowing only the mid-sized local exchange carriers to report data at the Class B level is that the $7 billion revenue cut-off will require local exchange carriers representing 90 percent of the local exchange industry, as measured by revenues, to continue reporting Class A data. Notice, ¶ 7. But this fact alone does not show that the Commission needs that data from the large local exchange carriers to perform its regulatory functions. Indeed, since the ARMIS financial and operating reports were originally adopted to assess revenue requirements under the rate of return regime, it is illogical to exempt the mid-sized carriers from Class A reporting, as many of them continue to file rates under rate of return regulation, and not to exempt the large local exchange carriers, all of whom now file rates under price caps.

The Notice attempts to show that the Class A level of detail has been used in the past to review cost allocations and for other regulatory purposes with regard to price cap carriers, but the one example that it cites for this proposition proves just the opposite. The Commission cites an investigation where it found that several local exchange carriers had improperly included lobbying expenses in their revenue requirements between 1989 and 1991, and points out that lobbying expenses are disaggregated at the Class A level, but not at the class B level. Notice, n.31. However, there is no Class A account that uniquely identifies lobbying expenses. Lobbying expenses are included in Class A

account 7370 (Special Charges) together with charitable contributions, membership fees and dues, penalties and fines paid on violations of statues, and abandoned construction projects. 47 C.F.R. §32.7370. Even if lobbying expenses were separately identified, it would tell the Commission nothing about whether those costs had been properly booked or not. In the case cited by the Commission, it had to perform audits of time reporting and other activities to determine that the local exchange carriers' employees had not assigned enough lobbying costs to account 7370. ***See*** "Commission Releases Summary of Lobbying Costs Audit Findings," Common Carrier Action, Report No. CC 95-65 (rel. Oct. 16, 1995).

Aside from that one example, the Notice contains only general claims that the Class A level of detail assists the Commission in identifying cross-subsidization, conducting audits, and administering its universal service, access charge, and accounting rules. Notice, n.29, 30. Such statements prove nothing about whether data at the Class A level is necessary – the same could be said about twice as much detail, or half as much. This utterly fails to meet the statutory requirement for the Commission to conduct biennial reviews in which it must determine, as to each and every regulatory requirement, "whether any such regulation is no longer necessary in the public interest." Section 11(a)(2).

Accordingly, if the Commission decides to continue the ARMIS reporting system (which it should not), it should allow all carriers, including the large local exchange carriers, to file ARMIS data at the Class B level.

In addition, the Commission should adopt the proposal being submitted this date by the United States Telephone Association, or the similar proposal submitted on July 1, 1998 by BellSouth, which would streamline the ARMIS reporting system and reduce the total pages of the ARMIS reports to 12 pages or less per study area. These proposals would consolidate and streamline the 43-01 through 43-04 financial reports at the Class B level of detail. The revised reporting format would still give the Commission data on expenses, investments, revenues, separations, access lines, rates of return, and universal service funding. They propose to eliminate, or greatly simplify, the service quality and infrastructure reports, which have already served their purpose of showing that price cap regulation has not undermined carrier performance in these areas. These are constructive proposals that would substantially reduce the burden on the reporting carriers, while providing a comprehensive picture of total company and interstate cost, revenue, and statistical data.

V. Conclusion

For the foregoing reasons, the Commission should eliminate, or significantly streamline, the ARMIS reports.

Respectfully submitted,

Joseph DiBella
1320 North Court House Road
Eighth Floor
Arlington, VA 22201
(703) 974-6350

Michael E. Glover
Of Counsel

Attorney for the Bell Atlantic
telephone companies

Dated: August 20, 1998

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of August, 1998 a copy of the foregoing "Comments of Bell Atlantic" was served on the parties on the attached list.

Jennifer L. Hoh

* Via hand delivery.

Anthony Dale*
Accounting Safeguards Division
Common Carrier Bureau
Federal Communications Commission
2000 L Street, Suite 201
Washington, DC 20554

ITS*
1919 M Street, NW
Room 246
Washington, DC 20554

Tom Power*
Legal Advisor to Mr. Kennard
Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW
Room 814
Washington, DC 20554

Jim Casserly*
Legal Advisor to Ms. Ness
Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW
Room 832
Washington, DC 20554

Kevin Martin*
Legal Advisor to Mr. Furtchtgott-Roth
Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW
Room 802
Washington, DC 20554

Kyle Dixon*
Legal Advisor to Mr. Powell
Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW
Room 844
Washington, DC 20554

Paul Gallant*
Legal Advisor to Ms. Tristani
Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW
Room 826
Washington, DC 20554